



General Assembly

January Session, 2009

Amendment

LCO No. 7170

HB0657807170HRO

Offered by:

REP. LABRIOLA, 131st Dist.
REP. O'NEILL, 69th Dist.
REP. CAFERO, 142nd Dist.
REP. HAMZY, 78th Dist.
REP. BACCHIOCHI, 52nd Dist.

REP. MIKUTEL, 45th Dist.
REP. NICASTRO, 79th Dist.
REP. FRITZ, 90th Dist.
REP. GUERRERA, 29th Dist.
REP. BERGER, 73rd Dist.

To: House Bill No. 6578

File No. 726

Cal. No. 479

"AN ACT CONCERNING THE PENALTY FOR A CAPITAL FELONY."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective from passage*) (a) A judgment of
4 conviction of a capital felony and a sentence of death imposed
5 pursuant to section 53a-46a of the general statutes shall be subject to
6 automatic review by the Supreme Court. The review of such
7 conviction shall be consolidated with the review of the sentence of
8 death required pursuant to section 53a-46b of the general statutes, and
9 such review shall have priority over all other cases and shall be heard
10 in accordance with rules promulgated by the Supreme Court. The
11 Supreme Court shall render a decision within two years after the filing
12 of the notice of appeal.

13 (b) When the notice of appeal is filed in the Supreme Court, the
14 Chief Justice shall, within thirty days, direct a judge qualified to
15 conduct capital proceedings to monitor the preparation of the
16 complete record for timely filing in the Supreme Court.

17 (c) Direct review shall be limited only to claims of trial error that
18 were raised during the defendant's trial and preserved for the record.
19 The Supreme Court shall independently review evidence that
20 established aggravating factors to ensure the evidence presented at the
21 penalty hearing is legally sufficient to support the imposition of a
22 sentence of death.

23 Sec. 2. (NEW) (*Effective from passage*) (a) An application for a writ of
24 habeas corpus pursuant to section 52-466 of the general statutes
25 challenging a capital felony conviction or the imposition of a sentence
26 of death pursuant to section 53a-46a of the general statutes shall be
27 brought not later than one hundred eighty days after the date of the
28 imposition of such sentence. Such application shall fully plead all
29 cognizable claims that the defendant's conviction or sentence was
30 entered in violation of the Constitution or laws of the state or the
31 Constitution of the United States.

32 (b) Notwithstanding the provisions of subsection (a) of this section,
33 the filing of a subsequent application for a writ of habeas corpus shall
34 not be barred if (1) the facts underlying the claim were unknown to the
35 defendant or the defendant's attorney and could not have been
36 ascertained by the exercise of due diligence prior to the filing of the
37 earlier application, and (2) the facts underlying the claim, if proven
38 and viewed in light of the evidence as a whole, would have reasonably
39 led the original trier of fact to have either found the defendant not
40 guilty or not sentence the defendant to death. The court shall hold a
41 hearing on such subsequent application not later than one hundred
42 eighty days after the filing of such application.

43 (c) The Chief Court Administrator shall designate one judge of the
44 Superior Court to hear and decide all applications for a writ of habeas

45 corpus filed by a person convicted of a capital felony and sentenced to
46 death in accordance with section 53a-46a of the general statutes.

47 Sec. 3. (NEW) (*Effective from passage*) Notwithstanding the provisions
48 of subsection (b) or (c) of section 54-102kk of the general statutes,
49 whenever any person convicted of a capital felony and sentenced to
50 death in accordance with section 53a-46a of the general statutes files a
51 petition pursuant to subsection (a) of said section 54-102kk requesting
52 DNA testing of evidence, the court shall, without a hearing, order such
53 DNA testing."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	New section